

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ARTHUR TYLER,	)	CASE NO. 1:08 CV 443
	)	
Petitioner,	)	
	)	JUDGE DAVID A. KATZ
v.	)	
	)	
MARK C. HOUK, Warden	)	<u>ORDER OF TRANSFER</u>
	)	
Respondent.	)	

On February 21, 2008, Petitioner, Arthur Tyler, filed a Notice of Intent to file a Habeas Corpus Petition pursuant to 28 U.S.C. § 2254. (Doc. 1). Concurrently, he filed a Motion for Appointment of Counsel, (Doc. 3), and a Motion to Proceed *In Forma Pauperis*. (Doc. 2). For the reasons stated below, this action must be transferred to the United States Court of Appeals for the Sixth Circuit.

A second or successive petition under section 2254 may not be filed without leave from the appropriate court of appeals. 28 U.S.C. § 2244(b)(3)(A). As Petitioner concedes in his Motion for Appointment of Counsel, the petition he intends to file is a successor petition. (Doc. 3, at 1). The Court previously dismissed with prejudice Petitioner's initial petition on May 20, 2002, after a review on the merits. Tyler v. Anderson, Case No. 1:96 CV 1881 (N.D. Ohio May 20, 2002)(Doc. 167).

Accordingly, pursuant to In re Sims, 111 F.3d 45 (6th Cir. 1997), this action is hereby transferred to the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED.

S/ David A. Katz  
DAVID A. KATZ  
U. S. DISTRICT JUDGE